IN THE MATTER OF THE APPLICATION OF COY MANNING FOR A VARIANCE ON PROPERTY LOCATED ON THE SOUTHWEST CORNER OF FIFTH AND CHARLESTON AVENUE (245 FIFTH AVENUE)

13th ELECTION DISTRICT

1st COUNCILMANIC DISTRICT

COUNTY BOARD OF APPEALS

BALTIMORE COUNTY CASE NO. 89-147-A

OPINION

The Appellant-Petitioner, Coy E. Manning, comes before this Board with an appeal from the denial, by the Deputy Zoning Commissioner, of his Petition for a height variance to 19 feet in lieu of the permitted 15 feet maximum allowed by the Baltimore County Zoning Regulation, as a matter of right.

Testimony before the Board by Mr. Manning indicated that he needed the additional space above his present garage to store property that he has stored in his father's home, a house he is selling and has a purchase contract on, and the basement of his home, 245 Fifth Avenue. It is additionally suggested by Mr. Manning that if the requested variance is granted, the garage's roof line will be in conformance with the roof line of his home, and the accessory structure created will be a more aesthetically pleasing structure.

Mrs. Elroy J. Snouffer, Appellee-Protestant, testified that the garage's present height has affected her view from her back yard, the free circulation of air, the sun's rays to her garden which has reduced the quality of her flowers, and has caused some erosion. Mrs. Snouffer suggests that the granting of the height variance will exacerbate the problems as they now exist.

An area variance may be granted where strict application of the Zoning Regulations would cause practical difficulty to the Petitioner and his property. McLean v. Solely, 270 Md. 208. To prove practical difficulty for an area variance, the Petitioner must meet three elements; one of these elements

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Ealtimore County this  $\frac{31^{5}}{}$  day of October, 1988 that the Petition for Zoning Variance to permit an accessory structure (garage) with a height of 19 feet in lieu of the maximum permitted 15 feet in accordance with Peti-

tioner's Exhibit 1, be and is hereby DENIED.

- MNostarovia ANN M. NASTAROWICZ

Deputy Zoning Commissioner for Baltimore County

Case No. 89-147-A Coy E. Manning

is whether strict compliance with the requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome.

After reviewing all of the testimony presented before the Board by the witnesses, the Board finds that the Appellant-Petitioner has not met the burden of proof that compliance with the 15 feet maximum height for an accessory structure would unreasonably prevent the use of the property for a permitted use or render conformance unnecessarily burdensome.

ORDER

It is therefore this 6th day of April , 1989 by the County Board of Appeals of Baltimore County ORDERED that the Petition for a variance of the height of an accessory structure should be and is hereby DENIED.

Any appeal from this decision must be made in accordance with Rules B-1 through B-13 of the Maryland Rules of Procedure.

> COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

#66

1000 \_\_\_\_

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 400.3 To allow an accessory structure (garage) with a height of 19 feet in lieu of the permitted 15 feet.

PETITION FOR ZONING VARIANCE

of the Zoning Regulations of Baltimore County, to the Zoning Law of Paltimore County? for the following reasons: (indicate hardship or practical difficulty) ADDITIONAL STORAGE SPACE

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Legal Owner(s): Contract Purchaser: COY E. MANNING (Type or Print Name) (Type or Print Name) City and State Attorney for Petitioner: Phone No. (Type or Print Name) City and State Name, address and phone number of legal owner, contract purchaser or representative to be contacted COY E. MANNING 245 FIFTH AVE: 536 0949 Address 2122) Phone No. Attorney's Telephone No.: -----ORDERED By The Zoning Commissioner of Baltimore County, this \_\_\_\_\_\_ 31st\_\_\_ day

21 st day of October, 1688, st 9 o'clock

Zoning Commissioner of Baltimore County.

13th Election District 1st Councilmanic District Coy E. Manning Petitioner

**基础。特别的对码,这是在海拔岛和**1600

The is to certify that I have surveyed the presises shown

improvements are located as hereon shown.

THIS PLAT BOX INTENDED FOR USE IN THE ESTABLISHMENT

Beson for the purpose of locating the improvements and

(245 Fifth Avenue)

IN RE: PETITION FOR ZONING VARIANCE SW/Corner Fifth & Charleston Aves. \* DEPUTY ZONING COMMISSIONER \* OF BALTIMORE COUNTY

\* Case No. 89-147-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

\* \* \* \* \* \* \* \* \* \*

The Petitioner herein requests a variance to permit an accessory structure (garage) with a height of 19 feet in lieu of the maximum permitted 15 feet in accordance with Petitioner's Exhibit 1.

The Petitioner appeared and testified. Mr. & Mrs. Elroy J. Snouffer appeared, he as an interested party and she as a Protestant.

Testimony indicated that the subject property, known as 245 Fifth Avenue, zoned D.R. 5.5, was purchased by Petitioner in February 1987. Petitioner has commenced construction of a two car garage for protection of his antique cars. Petitioner requests a height variance to allow him easy access to storage space on the second level. Further, Petitioner believes the height proposed will enable him to construct the garage in conformance with the roof line of his home, thus creating a more aesthetically pleasing structure.

Mr. & Mrs. Snouffer are the adjacent property owners who will be affected by the proposed variance. Mr. Snouffer testified his main concern was that the garage would be converted or used as living quarters or some other illegal use at some point in the future. Mrs. Snouffer testified she is opposed to the height variance as the additional height partially blocks the view of their back yard and blocks the sun's rays to her garden, thus adversely affecting her use and enjoyment of the rear yard. Pictures were introduced by both sides evidencing the height proposed and its relationship to the two properties.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily

whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and

3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 23

After due consideration of the testimony and evidence presented, there is insufficient evidence to allow a finding that the Petitioner would experience practical difficulty or unreasonable hardship if the requested variance were denied. The testimony presented by Petitioner was in support of a matter of preference rather than of the necessity for the variance. The Petitioner has failed to show that compliance would unreasnably prevent the use of the property or be unnecessarily burdensome. Therefore, the variance requested must be denied.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be denied.

SCHEDULE " A "

BEING the first thereof at the corner formed by the intersection of the South side of Fifth Avenue and the West side of Charleston Avenue and running thence Wes terly binding on the South side of 5th Avenue 75 feet to Lot No. 677, thence Southerly parallel with Charleston Avenue 102 feet to the outline of the whole property thence Eas werly and parallel with 5th Avenue 75 feet to the West side of Charleston Avenue and thence Norther binding on the West side of Charleston Avenue 102 feet to the place of beginning. Meanir and intending to convey lots known and designated as Lots Nos. 678, 679 and 680 on the Plat of Lansdowne as shown on said plat duly recorded among the Land Records of Baltimore County in Plat Book J.W.S. No. I, folio 49.

BEING the second thereof at a point on the South side of Fifth Avenue and distant 75 feet Westerly of the corner formed by the intersection of the South side of Fifth Avenue and the West side of Charleston Avenue and running thence Westerly and binding on the South side of 5th Avenue 25 feet thence at right angles from 5th Avenue 102 feet to the outling of the whole property thence Easterly and parallel with 5th Avenue 25 feet and thence Northerly and parallel with Charleston Avenue 102 feet to the place of beginning. Mea ni and intending to convey lot known and designated as Lot No. 677 on the Plat of Lansdowne as shown on said plat duly recorded among the Land Records of Baltimore County in Plat Book J.W.S. 1, folio 49. The improvements thereon being known as No. 245 Fifth Avenue.

PROPERTY LINES. CONC-Plat altered for Zoning Purposes. CONC. DRIVEWAY Plat for a Zoning Variance Dwner: Coy E. Manning 245 Zoning; DR-5.5 No- 245 Existing Utilities LAUSDOWNE in Fifth Ave. - LAUSDOWNE PRANK S. LEE 13TH DISTRICT BALTIHORE CO, MARYLAND 1277 NEIGHBORS AVE. Scale 1 : 20' BALTIMORE, MD. 21237

Subject

Property

Baltimore County Zoning Commissioner
Office of Planning & Zoning Towson, Maryland 21204 494-3353

Mr. Coy E. Manning 245 Fifth Avenue Baltimore, Maryland 21222

Re: Petition for Zoning Variance CASE NUMBER: 89-147-A SWC Fifth & Charleston Avenues (245 Fifth Avenue)

13th Election District - 1st Councilmanic Petitioner(s): Cay E. Manning HEARING SCHEDULED: FRIDAY, OCTOBER 21, 1988 at 9:00 a.m.

Dear Mr. Manning:

Please be advised that 475.05 is due for advertising and posting of the above-referenced property. All fees must be paid prior to the hearing. Do not remove the sign and post set(s) from the property from the time it is posted by this office until the day of the hearing itself.

ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED.

Please make your check payable to Baltimore County, Maryland and bring it along with the sign(s) and post(s) to the Zoning Office, County Office Building, Room 111, Towson, Maryland 21204 fifteen (15) minutes before

post set(s), there BALTIMORE COUNTY, MARYLAND each set not OFFICE OF FINANCE - REVENUE DIVISION MISCELLANEOUS CASH RECEIPT R-01-515-000 Posting and Advertising 10/21/98 Hearing

WALHEATION OR SIGNATURE OF CASHIEF

Petition for Zoning Variance

in the event that this result in the event that this result is granted, a building permit may be issued within the thirty (30) day expeed period. The Zoning Commissioner will, however, entertain mysioner will, however, entertain envy request to a stay of the issuance of said permit during this suence of said permit during this period for goud cause shown. Such request must be in writing and received in this office by the date of the hearing sat above or researched at the hearing.

J. ROBERT HAINE Zoning Commissioner ( Baltimore Count

Baltimore County Zoning Commissioner Office of Planning & Zoning Towson, Maryland 21204 494-3353

J. Robert Haines

September 14, 1988

Dennis F. Rasmussen

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

NOTICE OF HEARING

Petition for Zoning Variance CASE NUMBER: 89-147-A SWC Fifth & Charleston Avenues (245 Fifth Avenue) 13th Election District - 1st Councilmanic Petitioner(s): Coy E. Manning HEARING SCHEDULED: FRIDAY, OCTOBER 21, 1988 at 9:00 a.m. Variance to allow an accessory structure (garage) with a height of 19 feet in lieu of the permitted 15 feet.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. ROBERT HAINES Zoning Commissioner of Baltimore County cc: Mr. Coy E. Manning

Baltimore County Zoning Commissioner Office of Planning & Zoning Towson, Maryland 21204

J. Robert Haines

October 31, 1988

Mr. Coy E. Manning 245 Fifth Avenue Baltimore, Maryland 21227

Case No. 89-147-A

RE: PETITION FOR ZONING VARIANCE SW/Corner Fifth and Charleston Avenues (245 Fifth Avenue) 13th Election District - 1st Councilmanic District Cov E. Manning - Petitioner

Dear Mr. Manning:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance has been denied in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 494-3391.

Very truly yours,

A M Notarovia ANN M. NASTAROWICZ Deputy Zoning Commissioner for Baltimore County

Dennis F. Rasmusser

AMN:bjs

cc: Mr. & Mrs. Elroy J. Snouffer 239 Fifth Avenue Baltimore, Maryland 21227

People's Counsel

de request om appeal for case no. 89-147-A. Enclosed is a clack for 90. Senceraly Coy maning

PETITIONER(S) EXHIBIT (

CERTIFICATE OF PUBLICATION

TOWSON, MD., Oct. 18 , 19.88 THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., once in each of \_\_\_\_\_ successive weeks, the first publication appearing on \_\_\_\_\_lept. 29 \_\_\_\_, 19.88

89-147-A CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY

Date of Posting October 3,1988. District 13 th. Posted for: Variance Location of property: 5W/ cor, Fifth and Charleston Areneus Location of property

(245 Fifth arenue)

Location of Signs: In front of 245 Fifth arenue

89-147-A

County Office Building 111 W. Chesapeake Avenue Towson, Maryland 21204

\_\_\_\_\_\_ day of \_\_\_\_\_\_, 1988.

Petitioner Coy E. Manning

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

October 10, 1988

Mr. Coy E. Manning 245 Fifth Avenue Baltimore, Maryland 21227

> RE: Item No. 66 - Case No. 89-147-A Petitioner: Coy E. Manning Petition for Zoning Variance

Dear Mr. Manning:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. The Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

Very truly yours, Janus E. Dywldt

JAMES E. DYER Chairman Zoning Plans Advisory Committee

JED:dt

11-28-88 (O.K. - CW)

Baltimore County Fire Department Towson, Maryland 21204-2586 494-4500 Paul H. Reincke

September 12, 1988

J. Robert Haines, Zoning Commissioner Office of Planning & Zoning
Baltimore County Office Building
Towson, Maryland 21204

Re: Property Owner: Coy E. Manning

Location: SW/c Fifth & Charleston Avenues (245 Fitch Avenue)

Dennis F. Rasmussen
County Executive

Item No.: 66 Zoning Agenda: Meeting of 8/30/88

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

( ) 1. Fire hydrants for the referenced property are required and shall be located at intervals or \_\_\_\_ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.

( ) 2. A second means of vehicle access is required for the site.

( ) 3. The vehicle dead end condition shown at \_\_\_\_\_ EXCEEDS the maximum allowed by the Fire Department.

( ) 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

( ) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code," 1976 edition prior to occupancy.

( ) 6. Site plans are approved, as drawn.

(x) 7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: APPROVED: APPROVED: 5
Special Inspection Division

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY 89-147-1 Posted for: Applal
Petitioner: Coy 6: Manning Date of Posting 12-27-88

Location of property: 5W/Con of Fthe and Charleston Brenner 1245 Fifth arenie front of 245 Fifth anemie Date of return: 12-30-85

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

Your petition has been received and accepted for filing this

ROBERT HAINES
ZONING COMMISSIONER Received by:

Chairman, Zoning Plans Advisory Committee

Engineering

COUNTY OFFICE BLDG. 111 W. Chesapeake Ave.

Department of

Fire Prevention

Health Department

Project Planning

Building Department

Board of Education

Industrial

Bureau of

Traffic Engineering

State Roads Commission

## BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

J. Robert Haines TO Zoning Commissioner October 24, 1988 Pat Keller, Deputy Director
FROM Office of Planning and Zoning

SUBJECT Zoning Petition Nos. 89-147-A (Manning); 89-154-A (Wagner); 89-156-A (Wagandt); and 89-162-SPH (Conkel)

The Office of Planning and Zoning has no comment on the above petitions,

\* The variances shall only apply to the structure as shown (size and location) and will not be uniformly applied to the lot. The variances will not be applied to any substantial deviation from the construction as shown.

1/20/89 -Notice of Assignment: Thursday, March 16, 1989 at 1:00 p.m. sent to:

C. E. Manning

P. D. Fields

J. R. Haines

J. E. Dyer Docket Clerk

A. Jablon

M/M E. J. Snouffer

A. M. Nastarowicz

PK/sf

RECEIVED ZONING OFFICE



County Board of Appeals of Baltimore County COUNTY OFFICE BUILDING, ROOM 315 111 W. CHESAPEAKE AVENUE TOWSON, MARYLAND 21204 (301) 887-3180

April 6, 1989

Mr. Coy E. Manning 245 Fifth Avenue Baltimore, Maryland 21227

> Re: Case No. 89-147-A Coy E. Manning

Dear Mr. Manning:

Enclosed is a copy of the Board's final Opinion and Order issued this date regarding the subject matter.

Lindalee M. Kuszmaul Legal Secretary

The state of the s

Enclosure

cc: Mr. and Mrs. Elroy J. Snouffer People's Counsel of Baltimore County P. David Fields Patrick Keller J. Robert Haines Ann M. Nastarowicz James E. Dyer Docket Clerk -Zoning Arnold Jablon, County Attorney

Baltimore County Zoning Commissioner Office of Planning & Zoning Towson, Maryland 21204 494-3353 J. Robert Haines Zoning Commissioner

December 13, 1988



Baltimore County Board of Appeals County Office Building, Room 315 Towson, Maryland 21204

RE: Petition for Zoning Variance SW/Corner Fifth & Charleston Avenue (245 Fifth Avenue) 13th Election District, 1st Councilmanic District COY E. MANNING, Petitioner Case No. 89-147-A

Dear Board:

Please be advised that an appeal of the above-referenced case was filed in this office on November 28, 1988 by Coy E. Manning, the Petitioner. All materials relative to the case are being forwarded herewith.

Please notify all parties to the case of the date and time of the appeal hearing when it has been scheduled. If you have any questions concerning this matter, please do not hesitate to contact this office.

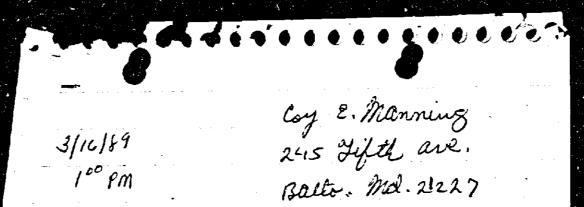
Zoning Commissioner

JRH:cer

Enclosures

cc: Mr. Coy E. Manning 245 Fifth Avenue, Baltimore, Md. 21227 Mr. & Mrs. Elroy J. Snouffer 239 Fifth Avenue, Baltimore, Md. 21227

People's Counsel of Baltimore County Rm. 304, County Office Bldg., Towson, Md. 21204



villiam T. Hackett

hairman Board of appeals Room 315 County Office Building

Dear Mr. Hackett:

My occupation as a mariner for the Department of Mary Could involve transferling anywhere on the globe at a moments notice.

Hey factors that could create changes in my avoidability for present scheduling of appeal hearing follow:

1) Ship repair periods

2) Remanning of personnel

3) Rescheduling of ship availability

APPEAL

Petition for Zoning Variance

SW/Corner Fifth & Charleston Avenue

(245 Fith Avenue)

COY E. MANNING, Petitioner

Var.-Accessory structure (garage) w/a height of 19' in lieu of

Case No. 89-147-A

\_\_\_\_permitted 15.

Zoning Plans Advisory Committee Comments

245 Fifth Avenue, Baltimore, Md. 21227

239 Fifth Avenue, Baltimore, Md. 21227

Docket Clerk

People's Counsel of Baltimore County

Mr. & Mrs. Elroy J. Snouffer

Director of Planning & Zoning Comments

Entry of Appearance of People's Counsel (None Submitted)

Petition for Zoning Variance

Description of Property

Certificate of Posting

Petitioner's Exhibits:

cc: Mr. Coy E. Manning

Certificate of Publication

13th Election District - 1st Councilmanic District



County Board of Appeals of Baltimore County

COUNTY OFFICE BUILDING 111 W. CHESAPEAKE AVENUE TOWSON, MARYLAND 21204

HEARING ROOM -Room 301, County Office Building

(301) 494-8180x 887-3180 January 20, 1989 NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 89-147-A

COY E. MANNING

SW/corner Fifth & Charleston Avenue (245 Fifth Avenue)

13th Election District

1st Councilmanic District

VAR -Accessory structure (garage) w/height of 19' in lieu of permitted 15'.

10/31/88 -Order of the Z.C. that the Petition for Variance is DENIED.

ASSIGNED FOR:

THURSDAY, MARCH 16, 1989 at 1:00 p.m.

cc: Mr. Coy E. Manning

Appellant /Petitioner

Mr. & Mrs. Elroy J. Snouffer Appellee /Protestants

People's Counsel for Baltimore County

P. David Fields Pat Keller

J. Robert Haines Ann M. Nastarowicz

James E. Dyer Docket Clerk -Zoning

Arnold Jablon, County Attorney

Kathleen C. Weidenhammer Administrative Secretary

10 letter

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	PROTESTANT(S) SIGN-IN SHEET
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PROTESTANT(S) SIGN-IN SHEET		
Eling Friendly Nowthy I have for	239 5.th Aut  239 5.th Aut  2307 21146 44 2/227  2307 21146 44  46 2001400 171 2007	
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 Plat for a Zoning Variance Interested Party's Exhibits: A. 3" x 5" photograph of garage Zoning Commissioner's Order dated October 31, 1988 (Denied) Notice of Appeal received November 28, 1988 from Petitioner km. 304, County Office Bldg., Towson, Md. 21204 Request Notification: P. David Fields, Director of Planning & Zoning Patrick Keller, Office of Planning & Zoning J. Robert Haines, Zoning Commissioner Ann M. Nastarowicz, Deputy Zoning Commissioner James E. Dyer, Zoning Supervisor